

Exhibit 1

Mintz - Direct - Vogl

1 A. Not exclusively, but primarily yes.

2 Q. Why did you decide to primarily help Jewish kids?

3 A. Well, I care about all kids, but the fact is that every

4 person has to be able to find their niche and find what

01:53 5 they're good at and become great at it. You know, I grew up

6 in the streets of Staten Island and Brooklyn where I got

7 beaten for being Jewish, got called names, heil Hitler, back

8 to the gas chambers, all these type of things; and I think

9 that Jewish kids had unique challenges and culture that I feel

01:53 10 that I'm best equipped to help them with. And therefore, you

11 know, it's not that we don't -- we think that -- I feel that

12 we can do the best at helping Jewish kids, we know their

13 culture, and it's just -- I think every -- there should be

14 charities for every group, I do best with our group.

01:54 15 Q. Did the OKR Fund advertise the Kars 4 Kids car donation

16 program at the time it was founded in 1995?

17 A. Yes.

18 Q. How did the OKR Fund advertise?

19 A. Well, then we were doing gorilla marketing which is the

01:54 20 onset, we printed flyers and bumper stickers and anything and

21 we stuck them up wherever we can; we had a bunch of volunteers

22 and we just plastered wherever we can.

23 Q. So you used the phrase gorilla marketing, just for

24 everyone's understanding what do you understand by gorilla

01:54 25 marketing?

Mintz - Direct - Vogl

1 A. Some of the ways we expanded was we started doing -- you
2 know, we had our silent auction which we sent out across the
3 country, and we also I think in some of the Jewish newspapers,
4 and postcards, we did postcards.

01:56 5 MR. VOGL: I'd like to bring up 183, it's already
6 been admitted in evidence. It's K4KX 183.

7 Q. Rabbi Mintz, do you recognize this document?

8 A. Yeah.

9 Q. Please describe what it is.

01:56 10 A. This is from our earlier postcards it says: Selling your
11 car, tired of playing salesman, call donate to
12 1-877-Kars-4-Kids.

13 Q. And when was this postcard distributed?

14 A. This was distributed in '97, '98, '99, those years.

01:57 15 Q. And this postcard came from your files; correct?

16 A. Yes.

17 Q. Rabbi Mintz, what does the man depicted in this
18 advertisement represent?

19 A. Well, he's opening his jacket showing you his fake old
01:57 20 watches, and basically a slimy used car salesman basically
21 telling people if you want to sell your car, you're going to
22 have to play, you know, used car salesman; who wants to do
23 that, just give to it charity and be done with it and do a
24 good thing with it.

01:57 25 Q. And where was this postcard mailed?

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1 A. This was mailed throughout the country.

2 Q. Did you compile a mailing list in order to do that?

3 A. Well this postcard -- very interesting what we used to do

4 was we would scrape the telephone numbers from the bylines of

01:57 5 the newspapers, you know, they had on the back I think it was

6 Saturday and Wednesday, you know, used cars for sale, we would

7 take those numbers, put it into a program called ProCD, and

8 then ProDC would give us the addresses and we would mail it

9 out to them. As the, you know, months went by it was

01:58 10 successful, so we used to drive down to Manhattan and get

11 newspapers from other states because you couldn't get them in

12 New Jersey and in Manhattan they'd had these places that would

13 sell out-of-state newspapers and we would scrape the numbers

14 off them and we would send them postcards. Sometimes we had

01:58 15 the get them overnighted from different states because

16 Manhattan didn't carry them so this went across the country.

17 And that's gorilla marketing.

18 Q. Were the OKR Fund's advertising campaigns successful?

19 A. Yes.

01:58 20 Q. Why do you say that?

21 A. Well, we flooded the country with our -- all of our

22 gorilla marketing, our postcards our ads and everything and we

23 would start to become known nationwide with our Kars 4 Kids

24 and our 877-Kars-4-Kids.

01:59 25 Q. Is there any particular campaign that you can recall that

Mintz - Direct - Vogl

1 America Can! was claiming rights in any specific state?

2 A. Yeah, it says: We must insist that you immediately cease
3 and desist from all use in Texas of the mark or anything
4 confusingly similar.

02:14 5 Q. To the best of your understanding were there any other
6 states referenced in this letter?

7 A. No.

8 Q. Did you respond to this letter?

9 A. No.

02:14 10 Q. Why not?

11 A. Because we were there on -- in the Dallas Morning News
12 for already two years, we were there in their state before
13 that sending, you know, postcards and flyers and other types
14 of advertisements and we never heard of them. And therefore
02:15 15 we just figured they're trying to piggyback on us or get us
16 out of the state, we didn't take them seriously especially
17 when the language that they used was -- can I go back to the
18 page before?

19 Q. Sure.

20 A. To read it? They wrote over here pretty strong language:
21 This recognition was achieved through extensive marketing and
22 advertising efforts including print, broadcast, advertising
23 billboard -- and the Dallas Morning News never heard of Cars
24 For Kids. So we didn't take it seriously and we just -- we
02:15 25 ignored it.

Landau - Direct - Ofosu-Antwi

1 your binder. Can you please tell me what it is, if you
2 recognize it?

3 A. It's the summary from CBS radio of all the invoices for
4 advertising that we purchased for the Kars 4 Kids' marks.

04:55 5 Q. And you just heard earlier that Kars 4 Kids keeps its
6 invoices from CBS radio in the ordinary course of business,
7 correct?

8 A. Yes, that's correct.

9 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
04:56 10 admit Kars 4 Kids Exhibit 226 into evidence.

11 MR. KINKADE: No objection, your Honor.

12 THE COURT: Admitted.

13 (Plaintiff's Exhibit 226 moved in evidence.)

14 MS. OFOSU-ANTWI: Can you please put it up?

04:56 15 BY MS. OFOSU-ANTWI:

16 Q. Now, can you tell me what the date range is on this set
17 of invoices?

18 A. So April of 2009 and it goes -- flip through the pages
19 here. On page 65, it goes to May of 2017.

20 Q. And do all of these invoices reflect advertising on CBS
21 radio using the Kars 4 Kids and the 1-877-Kars-4-Kids' mark?

22 A. Yes.

23 Q. In 2009 to 2017?

24 A. Yes, they do.

25 Q. And do you know the reach of CBS radio?

Landau - Direct - Ofosu-Antwi

1 A. CBS radio is a national reach.

2 Q. And how do you know that?

3 A. Oh, when we purchased the radio, we asked them for the
4 Nielsen reports and where they're -- the amount of people that
04:57 5 listen and things. We need to know how many people are
6 listening. We wanted to make sure that we get the most value
7 for our buy.

8 We actually created a formula. We ask them every so
9 often, we'll ask them for, like, a new report, a new Nielsen,
04:57 10 you know, how many people are listening now. You know, to
11 your -- to your station. And then, we'll make sure that we're
12 not overpaying in any of the stations that we're buying. Make
13 sure that it's -- you know, the price is right.

14 Q. Do you know how long you've been advertising with CBS
04:57 15 radio?

16 A. About 2004 or '5.

17 Q. Can you please turn to Kars 4 Kids Exhibit 222 in your
18 binder. Can you tell me what it is and if you recognize it?

19 A. It's an invoice from Bonneville International for Kars 4
04:57 20 Kids for advertising that we placed on their radio station.

21 Q. And what type of advertising does Bonneville do?

22 A. So, it's a radio -- it's a radio company.

23 Q. So, what type of ad would be placed with them?

24 A. Well, it would be the Kars 4 Kids jingle.

04:58 25 Q. Now, does Kars 4 Kids keep the invoices from Bonneville

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1 banner.

2 Q. Do you know where this ad ran?

3 A. It ran in Miami, St. Louis, Denver, Phoenix, and Tampa.

4 Q. In addition to the radio, does Kars 4 Kids also advertise
05:05 5 in newspapers?

6 A. Yes.

7 Q. And can you tell us which newspapers?

8 A. So, we've run in regional newspapers such as the *Daily*
9 *News* and the *New York Post*, as well as the *Asbury Park Press*
05:05 10 and the *Star Ledger*, as well as the *Chicago Sun Times*, the
11 *Honolulu Times* and some various papers in Maryland and D.C. as
12 well. As well as national newspapers.

13 Q. What was your earliest national newspaper Kars 4 Kids
14 advertised in?

05:05 15 A. The *Jewish Press*.

16 Q. And do you know when Kars 4 Kids started advertising in
17 the *Jewish Press*?

18 A. 1998.

19 Q. Now, to decide on what kind of publications to advertise
05:05 20 in, what are some of the things you consider generally?

21 A. So we always consider the reach and the circulation as
22 well as the demographic, the person that it's going to be
23 reaching.

24 Q. And why is this important?

05:06 25 A. We want to make sure that we're reaching the most people

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1 evidence.

2 THE COURT: No objection.

3 MR. KINKADE: No objection, your Honor.

4 THE COURT: Admitted.

05:08 5 (Plaintiff's Exhibit 203 moved in evidence.)

6 BY MS. OFOSU-ANTWI:

7 Q. Can you tell us what is on the top right-hand corner of
8 the document?

9 A. It is an ad to donate your car to Kars 4 Kids and it
05:08 10 includes also the 1-877-Kars-4-Kids' mark as well.

11 Q. And this would be an ad that Kars 4 Kids placed in the
12 Maryland newspaper in December of 2003, correct?

13 A. That's correct.

14 Q. Now, does Kars 4 Kids also advertise via regular mail?

05:08 15 A. Yes.

16 Q. And can you please turn to Kars 4 Kids Exhibit 142 in
17 your binder.

18 Can you tell us what this is, if you recognize it?

19 A. It's a certificate we offered to our donors across the
05:09 20 country for donating their car with a free hotel stay.

21 Q. Is this certificate kept in the ordinary course of
22 business?

23 A. Yes.

24 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
05:09 25 admit Kars 4 Kids Exhibit 142 in evidence.

Landau - Direct - Ofosu-Antwi

1 THE COURT: Any objections?

2 MR. KINKADE: No objection, your Honor.

3 THE COURT: Admitted.

4 (Plaintiff's Exhibit 142 moved in evidence.)

05:09

5 BY MS. OFOSU-ANTWI:

6 Q. Can you please tell us what mark is on the certificate?

7 A. So it has the Kars 4 Kids' mark as well as the

8 1-877-Kars-4-Kids' mark.

9 Q. Do you know when the certificate was offered?

05:09

10 A. I believe we began offering them in 2001.

11 Q. And do you know where this certificate was distributed?

12 A. It was distributed across the country to all of our

13 donors.

14 Q. In addition to advertising by mail, do you know if Kars 4

05:10

15 Kids advertised online?

16 A. Yes.

17 Q. Okay. How long has Kars 4 Kids been advertising online?

18 A. Since, at least, 2003.

05:10

19 Q. Can you please turn to Kars 4 Kids Exhibit 92 in your
20 binder.

21 Can you tell us what it is, if you recognize it?

22 A. It's an ad from Yahoo advertising center for advertising
23 that we did with the Kars 4 Kids' mark.

05:10

24 MS. OFOSU-ANTWI: Your Honor, I believe this exhibit
25 is also stipulated to, so I'd like to have it moved into

Landau - Direct - Ofosu-Antwi

1 evidence.

2 THE COURT: Any objections?

3 MR. KINKADE: No objection, your Honor.

4 THE COURT: Admitted.

05:10 **5** (Plaintiff's Exhibit 92 moved in evidence.)

6 THE COURT: What was the number again? K4KX 92 or
7 93.

8 MS. OFOSU-ANTWI: I'm sorry, your Honor.

9 THE COURT: I didn't get that exhibit number.

05:11 **10** MS. OFOSU-ANTWI: 92.

11 THE COURT: Okay.

12 MS. OFOSU-ANTWI: The one before that was 142.

13 THE COURT: Got it.

14 MS. OFOSU-ANTWI: Thank you, your Honor.

05:11 **15** BY MS. OFOSU-ANTWI:

16 Q. Ms. Landau, could you tell us what the date range for the
17 report is? It should be on the top left-hand corner?

18 A. June 2003 through September 2003.

19 Q. Do you know where these ads would have run?

05:11 **20** A. They would have been nationwide.

21 Q. Now, what does it say on line 3 of the chart on the ad
22 name?

23 A. North -- North Kars 4 Kids.

24 Q. Can you please turn to Kars 4 Kids Exhibit 93 in your
05:11 **25** binder.

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1 Can you tell us what it is, if you recognize it?

2 A. It looks like a report from an online marketing for
3 Kars4Kids.org from May, June, and July of 2003.

4 Q. And is this report kept in the ordinary course of
05:12 business at Kars 4 Kids?

5 A. Yes.

6 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
7 admit Kars 4 Kids 93 into evidence.

8 THE COURT: Any objections?

9 MR. KINKADE: No objection.

10 THE COURT: Okay. Admitted.

11 (Plaintiff's Exhibit 93 moved in evidence.)

12 BY MS. OFOSU-ANTWI:

13 Q. Now, if you go in the campaign names, other than Google,
05:12 could you tell us some of the other ones that are identified
14 on the chart?

15 A. So, Overture was Yahoo advertising at the time. Arutz 7,
16 DEBKA, Haaretz, the Insider, are all online Israeli
17 newspapers.

18 Q. Do you know where this ad run?

19 A. They were national.

20 Q. Can you turn to Kars 4 Kids 122 in your binder.

21 Can you tell us what it is, if you recognize?

22 Q. It's an invoice from Google for advertising that we did
05:13 for Kars 4 Kids. 1.

Landau - Direct - Ofosu-Antwi

1 Q. Are invoices from Google kept in the ordinary course of
2 business at Kars 4 Kids?

3 A. Yes.

4 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
05:13 5 admit Kars 4 Kids Exhibit 122 into evidence.

6 MR. KINKADE: No objection.

7 THE COURT: Admitted.

8 (Plaintiff's Exhibit 122 moved in evidence.)

9 BY MS. OFOSU-ANTWI:

10 Q. You may have already told me this, Ms. Landau. Could you
11 tell us what the periods for this invoice is?

12 A. It's for October of 2009.

13 Q. And can you tell us what the names of the campaigns are?

14 A. K4K miscellaneous words, K4K junk drive miscellaneous,
05:13 15 K4K all states, K4K cities, Kars 4 Kids popular words, Google
16 local, Kars 4 Kids popular content.

17 Should I read them all?

18 Q. No. That's all right.

19 Can you explain what a few of these are just so we know
05:13 20 what they are?

21 A. Oh, sure. So, Google local, that was the main campaign.
22 And most of the key words like the brand, Kars 4 Kids, and car
23 donation, donate car, they went to that campaign.

24 Content normally means like a display ad that's going
05:14 25 to show on the Google content network. So different than

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1 search.

2 K4K Spanish words. Those are, like, you know, people
3 looking to donate their cars in Spanish.

4 Q. In addition to this invoice, can you give us some
05:14 5 examples of other ad campaigns you run with Google?

6 A. So, since we started with Google in about 2003, we
7 actually generated over, like, 600 million impressions on
8 Google search between the search and the display networks.

9 We've driven over 4 million clicks to our website and
05:14 10 over 400,000 donations to Google AdWords.

11 Q. And you said you started advertising with Google in 2003,
12 correct?

13 A. That's correct.

14 Q. Can you please turn to Kars 4 Kids Exhibit 224 in your
05:14 15 binder.

16 A. I'm sorry. I didn't hear you.

17 Q. 224. Can you tell us what it is, if you recognize it?

18 A. Sure. It's the summary from all the invoices we received
19 from Google for advertising on Kars 4 Kids' marks.

20 Q. You just said that invoices from Google are kept in the
21 ordinary course of business at Kars 4 Kids, correct?

22 A. Yes, that's correct.

23 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
24 admit Kars 4 Kids 224 into evidence.

25 MR. KINKADE: No objection.

Landau - Direct - Ofosu-Antwi

1 THE COURT: Admitted.

2 (Plaintiff's Exhibit 224 moved in evidence.)

3 BY MS. OFOSU-ANTWI:

4 Q. Ms. Landau, could you tell us the date range on these
05:15 5 invoices?

6 A. April of 2009 through April of 2017.

7 Q. Do you know where these ads would have run?

8 A. These were national campaigns.

9 Q. And would these ads feature the Kars 4 Kids' marks?

10 A. Yes. The Kars 4 Kids and sometimes 877-Kars-4-Kids.

11 Q. Ms. Landau, did Kars 4 Kids also advertise via email?

12 A. Yes.

13 Q. Can you please go to Kars 4 Kids Exhibit 98 in your
14 binder. 198. I'm sorry.

05:16 15 Can you tell us what it is, if you recognize it?

16 A. So it's an email offering a free vacation when you donate
17 your car with a link to come to our website to donate.

18 Q. And is this sample -- is this sample email kept in the
19 ordinary course of business at Kars 4 Kids?

20 A. Yes.

21 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
22 admit 198 into evidence.

23 THE COURT: Any objection?

24 MR. KINKADE: No objection, your Honor.

05:17 25 THE COURT: Admitted.

Landau - Direct - Ofosu-Antwi

1 (Plaintiff's Exhibit 198 in evidence.)

2 BY MS. OFOSU-ANTWI:

3 Q. Ms. Landau, do you know where these emails would have
4 been sent out?

05:17 5 A. They would have been sent out nationwide through our
6 mailing list.

7 Q. And were they actually sent out?

8 A. Yes, I believe so.

9 Q. And where is your mailing list?

05:17 10 A. Nationwide.

11 Q. Do you know when it would have been sent out?

12 A. I would say between 2003 and 2004. That's when we were
13 increasing our web presence.

14 Q. Has Kars 4 Kids also advertised in publications like
05:17 15 magazines?

16 A. Yes.

17 Q. Can you please turn to Kars 4 Kids Exhibit 91 in your
18 binder.

19 Can you please tell us what it is, if you recognize it?

05:18 20 A. Sure. It's an insertion order for the *Reader's Digest*
21 for Kars 4 Kids. The date is March of 2005.

22 MS. OFOSU-ANTWI: Your Honor, the parties have
23 stipulated to this exhibit, so I'd like to have it moved into
24 evidence.

05:18 25 THE COURT: All right. No objection, right?

Landau - Direct - Ofosu-Antwi

1 MR. KINKADE: Your Honor, there's been an objection
2 under Rule 403.

3 THE COURT: Okay. Admitted.

4 (Plaintiff's Exhibit 91 moved in evidence.)

05:18 5 BY MS. OFOSU-ANTWI:

6 Q. Ms. Landau, is this insert kept in the ordinary course of
7 business, the order?

8 A. Yes.

9 MS. OFOSU-ANTWI: Your Honor, I'd like to have it
05:19 10 admitted.

11 THE COURT: What exhibit are you on? 91?

12 MS. OFOSU-ANTWI: 91.

13 THE COURT: I already admitted that.

14 MS. OFOSU-ANTWI: Thank you.

05:19 15 BY MS. OFOSU-ANTWI:

16 Q. Now, Ms. Landau, in deciding to figure out or choose
17 which magazines to place ads in, what do you consider?

18 A. So we consider the circulation, the reach and
19 demographic, like we discussed.

05:19 20 Q. And would these factors have been considered in the
21 decision to advertise in the *Reader's Digest*?

22 A. Yes.

23 Q. Okay. Can you please direct your attention to page 4 of
24 the document.

05:19 25 Can you tell us what it says after March 22nd, 2005?

Landau - Direct - Ofosu-Antwi

1 A. It says it's a half page horizontal, 41,700 for a
2 three-month commitment.

3 Q. And what is the issue date?

4 A. Issue date, June 2005.

05:20 5 Q. And what is the information under additional notes?

6 A. The Kars 4 Kids June insertion will be one, national.

7 Q. What does that mean?

8 A. That it will run across the country.

05:20 9 Q. Can you please turn to Kars 4 Kids Exhibit 126 in your
10 binder.

11 Can you please tell us what it is, if you recognize it?

12 A. It's the cover of the *Reader's Digest*, June 2005.

13 Q. And would this be kept in the ordinary course of business
14 at Kars 4 Kids?

05:20 15 A. Yes.

16 MS. OFOSU-ANTWI: Your Honor, I'd like to move to
17 admit Kars 4 Kids 126 into evidence.

18 THE COURT: Any objections?

19 MR. KINKADE: We renew our objection under the rule
05:21 20 of completeness, your Honor.

21 THE COURT: I didn't hear that.

22 MR. KINKADE: We renew our objection under the rule
23 of completeness.

24 THE COURT: The rule of completeness?

05:21 25 MR. KINKADE: Yes, your Honor. I think we discussed

Landau - Direct - Ofosu-Antwi

1 this at the outset of the case. It's a partial copy. Your
2 Honor already ruled on the issue.

3 THE COURT: Partial copy. So you want to be heard at
4 sidebar?

05:21 5 MR. KINKADE: Sure.

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Landau - Direct - Ofosu-Antwi

1 (Sidebar begins at 3:21 p.m.)

2 THE COURT: So I don't recall this completeness
3 argument. This is what we have, right?

4 MS. OFOSU-ANTWI: Yes, your Honor. It has the first
05:22 **5** page is the cover page, and then this is the ad that ran.

6 THE COURT: So you want the whole magazine?

7 MR. KINKADE: We argued about this. In fairness to
8 Kars 4 Kids, your Honor, did, I believe, overrule our
9 objection but we're just making a record.

05:22 **10** THE COURT: Okay. Thanks. It's admitted, but I'll
11 tell the jury.

12 (Sidebar was concluded at 3:23 p.m.)

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Landau - Direct - Ofosu-Antwi

1 (Open court.)

2 THE COURT: K4KX 126 is admitted.

3 (Plaintiff's Exhibit 126 moved in evidence.)

4 BY MS. OFOSU-ANTWI:

05:23 **5** Q. Ms. Landau, could you please go to Page 2 of the
6 document.

7 Can you please describe what's on the top of Page 2 of
8 the document?

9 A. It's an ad that we ran in the *Reader's Digest*. It says:

05:23 **10** "Donate your car." It has the 1-877-Kars-4-Kids' mark as well
11 as the Kars 4 Kids' mark.

12 Q. And do you recall the circulation of the *Reader's Digest*
13 at this time?

14 A. Well in the millions across the country.

05:23 **15** Q. Can you please turn to Kars 4 Kids Exhibit 135 in your
16 binder.

17 Can you tell us what it is, if you recognize it?

18 A. It's the cover of the *AAA World Magazine*.

05:23 **19** Q. And is this kept in the ordinary course of business at
20 Kars 4 Kids?

21 A. Yes.

22 Q. And what is AAA?

23 A. The AAA magazines are sent to AAA subscribers, so.

05:24 **24** MS. OFOSU-ANTWI: Your Honor, I'd like to move to
25 admit Kars 4 Kids Exhibit 135 into evidence.

Landau - Redirect - Ofosu-Antwi

1 Q. America Can! 363.

2 A. Okay.

3 Q. Now, in those e-mails did any donations actually get

4 diverted from America Can! Cars For Kids?

01:45

5 A. I don't think so.

6 Q. And does donor confusion hurt Kars 4 Kids?

7 A. Yes, it does.

8 Q. How does it hurt Kars 4 Kids?

01:45

9 A. People think that -- well, first of all with the gift
10 card people -- you know, they assume -- they donate after they
11 heard the jingle and then they'll hear the Cars For Kids
12 commercial with the gift card and think oh, you supposed to
13 give me a gift card and then they think we're not being
14 truthful, that we're not giving them the gift card but we
15 never actually advertised that, so it's very confusing to the
16 consumer.

17 Q. Now, in 2003 did you advertising reaching reach Texas?

18 A. Yes, it did.

01:45

19 Q. I know there's been a lot of talk about the cease and
20 desist letter, and that letter specifically identified Texas;
21 correct?

22 A. That's correct.

23 Q. And did any of the ads that we discussed earlier
24 specifically target Texas?

01:45

25 A. Which ads?

Landau - Redirect - Ofosu-Antwi

1 Q. The ads that you and I discussed in our direct.

2 A. No.

3 Q. Mr. Kincade also showed you some 990s with advertising
4 expenditures for Kars 4 Kids; correct?

01:46 5 A. Yes.

6 Q. Now, would the advertising that would have been done with
7 this money, would that have been included national ads?

8 A. Yes.

9 Q. And do you know if Kars 4 Kids intentionally ever took
01:46 10 donations from America Can!?

11 A. No, we don't take donations from America Can!

12 MS. OFOSU-ANTWI: That's all I have, your Honor.

13 THE COURT: All right, thank you.

14 You may step down.

01:46 15 THE WITNESS: Thank you, your Honor.

16 (Witness excused.)

17 THE COURT: Next witness?

18 MS. OFOSU-ANTWI: Your Honor, may I approach to pick
19 up my binders?

01:46 20 THE COURT: Yes, you may.

21 MR. VOGL: Your Honor, we do not have any additional
22 Kars 4 Kids' witnesses, but we do have some additional
23 questions on direct for witnesses that --

24 THE COURT: Let me hear you at sidebar.

01:47 25 MR. VOGL: Sure.

Cheryl Poldrugach Deposition Portions Read

1 was Richard.

2 "Q. And that's Richard Marquez?

3 "A. Richard Marquez and the board, because ultimately
4 the board was who started with him.

5 "Q. So when you joined America Can! in 2002 were you
6 aware of the plaintiff Kars 4 Kids with a K?

7 "A. No.

8 "Q. When did you first become aware of the plaintiff
9 Kars 4 Kids?

10 "A. '6, '7 timeframe when I went over to Cars world.

11 "Q. And how did you become aware of Kars 4 Kids?

12 "A. Initially from donors that were confused, that's
13 how I learned of it.

14 "Q. Um-hmm. Has America Can! ever taken donations
15 from donors that had intended to donate to the plaintiff Kars
16 4 Kids?

17 "A. No, we would send them to them because we could
18 usually figure it out that they weren't calling for us and
19 vice versa. People could call for a tax receipt from Kars 4
20 Kids with a K, and we would just contact them because they
21 thought they donated to us but they didn't.

22 "Q. Did America Can! actually begin advertising in
23 San Francisco around this time?

24 "A. You reference America Can! and I'm confused and I
25 apologize, but America Can! is Cars for Kids in my head and

WENTWORTH - CROSS - VOGL

1 question.

2 BY MR. VOGL:

3 Q. So, Mr. Wentworth, do you recall yesterday we talked
4 about a letter that your organization wrote my client in 2003.

5 Do you recall that?

6 A. The cease and desist letter?

7 Q. Yes, sir.

8 A. Yes, sir.

9 Q. And America Can! didn't write my client again until 2013,
10 correct?

11 A. Correct.

12 Q. So to be clear, America Can! didn't write my client to
13 ask or demand that they stop using Kars 4 Kids with a K in
14 2004, correct?

15 A. No, sir.

16 Q. And America Can! didn't write my client in 2005 to demand
17 that they stop using Kars 4 Kids, did they?

18 A. No, sir.

19 Q. In fact, they didn't write to my client at any time
20 between 2006 and 2012 to ask them to demand -- to ask them to
21 stop using Kars 4 Kids, correct?

22 A. Correct.

23 MR. VOGL: May I approach, your Honor.

24 THE COURT: You may.

25 MR. VOGL: Thank you.